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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,403	02/08/2002	Dennis Veltre	188 rk 001	1637

7590 11/04/2004

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EXAMINER

LANEAU, RONALD

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/071,403

Applicant(s)

VELTRE ET AL.

Examiner

Ronald Laneau

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*NEW*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1-11 are presented for examination.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3, 5-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinebuchi et al (US 6,208,976 B1) in view of Shapiro (US 2002/0059174 A1).

Kinebuchi et al discloses a method and a system for selecting a beverage through an Online site computer network (see Kinebuchi, col. 15, lines 55-64) including the steps of: posting a selection of beverages (menu) available at a site for consumption on either an exclusive basis or a shared basis on a computer network local to said site at locations throughout the site

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where patrons are situated during a predetermined time interval (see Kinebuchi, col. 14, lines 1-20); permitting each of said patrons at said site to select at least one beverage on an exclusive or shared basis from said posted selection by hand held computer units networked to said system (see Kinebuchi, col. 12, lines 7-11, fig. 1, wireless communication network); displaying said selections available based on stock and share selections from patrons (LCD display screen, fig. 13, 42 which displays the menu on the display screen).

Kinebuchi does not explicitly disclose a wine selection in the beverage menu and also sharing selections from patrons so that other patrons can join in any of the shared selections and displaying the amount of time remaining (time left before the auction ends for the item) in said predetermined time interval before said selection process is terminated by the computer network.

However, Shapiro discloses a method and system for sharing a bottle of wine the computer system allows customers (patrons) to request a glass or taste of wine, and when the requests reach a predetermined threshold for a given bottle of wine, the bottle of wine is uncorked and served (selection process is terminated) (see abstract), updating the display to include the date and time the bottle was uncorked and the prices per glass of wine. Furthermore, Shapiro discloses a method and system wherein the step of during said selection of said at least one beverage permitting each of said patrons along with said selection of said at least one beverage to submit a bid for a price that is at least as much as a minimum price posted by the system for the selected beverage on either an exclusive or shared basis and permitting other patrons to bid for said selected beverage on either an exclusive or shared basis (wine may be auctioned, auction: a public sale in which property or items of merchandise are sold to the highest bidder when the time expires) and posting bids as submitted until the predetermined time

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interval expires and at the end of said predetermined time interval said selected beverage is awarded to said highest bid or bids for shared bidders (see Shapiro, pages 4-5, lines 1-25).

It would have been obvious to one of ordinary skill in the art to modify the electronic ordering system of Kinebuchi to include the system of sharing bottles of wine in a restaurant as taught by Shapiro because it would provide the capability for individuals (customers, patrons) to share various items, such as food and beverages, whether in a social or commercial context (see Shapiro, page 2, [0015], lines 1-5).

5. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinebuchi et al (US 6,636,835 B2) in view of Shapiro (US 2002/0059174 A1) and further in view of Krulak et al (US 2001/0025279 A1).

Neither Kinebuchi nor Shapiro discloses the step of selecting meals courses through a network and have the network recommend a wine or wines but Krulak discloses the steps of permitting each of said patrons (users or customers) to select meal courses through said computer network and having the computer network (database) recommend a suitable wine or wines (recommend drinks) for said selected meal courses (different types of foods) (see Krulak, page 1, [0007], lines 1-7).

It would have been obvious to one of ordinary skill in the art to modify the electronic ordering system of Ragsdale-Elliott to include the system of sharing bottles of wine in a restaurant as taught by Shapiro because it would provide the capability for individuals (customers, patrons) to share various items, such as food and beverages, whether in a social or commercial context (see Shapiro, page 2, [0015], lines 1-5). And it would have been obvious to

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one of ordinary skill in the art at the time the invention was made to modify the electronic ordering system with the system of sharing bottles of wine in a restaurant to include the wine recommendation system for selected meals as taught by Krulak because it would provide a menu planning system that can generate a recommended menu and drink list for a planned menu based upon certain stated restrictions (see Krulak, page 1, [0005], lines 2-4).

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Reiner (US 2002/0029184 A1) discloses a method and system for network wine auctioning.
- Coleman (US 5,839,115) discloses a restaurant management system.
- Camaisa et al (US 5,845,263) disclose a portable interactive visual ordering system and method that may be used to facilitate ordering menu items by a customer.
- Ragsdale-Elliott et al (US 6,636,835 B2) disclose a wireless maitre d' system and method for providing interactive two-way communication between patrons and restaurant service personnel who have direct interaction with the patrons during restaurant encounters.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (703) 305-3973. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Ronald Laneau*

Ronald Laneau  
Examiner  
Art Unit 3627

10/22/04

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